



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No.

CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON MA 02110

MAILED

JUL 08 2010

OFFICE OF PETITIONS

In re Patent No. 7,629,390 : DECISION ON REQUEST
Nuyens et al. : FOR
Issue Date: December 8, 2009 : RECONSIDERATION OF
Application No. 10/534,677 : PATENT TERM ADJUSTMENT
Filed: July 25, 2005 : and
Atty Docket No. 50304/077001 : NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on February 8, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand and forty-eight (1048) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**. The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by **one thousand and forty-eight (1048) days**.

The "B" delay period is 571 days, not 501 days. Patentee calculated this period based on the date this application fulfilled the requirements of 35 U.S.C. 371, July 25, 2005. However, in an international application, this period is based on the failure of the Office to issue a patent within three years after the national stage commenced under 35 U.S.C. 371(b) or (f). See 1.702(b). In this instance, the national stage commencement date is Monday, May 16, 2005. The priority date of this application is November 14, 2002. As the requirements for early commencement were not met, the national stage commenced in

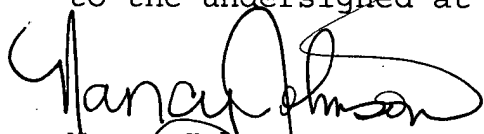
this application at the end of the thirty-month period. As the expiration of the 30-month period pursuant to 35 U.S.C. 371(b) fell on a Saturday, the period expired on the subsequent business day. See PCT Rule 80.5. Accordingly, the commencement date is Monday, May 16, 2005. Thus, "B" delay is 571 days, counting the number of days beginning on May 17, 2008 and ending on December 8, 2009, the date of issuance. See 1.703(b). Nonetheless, considering that the overlap is now 88 days (and not 18 days), the patent term adjustment is still increased by 483 days to 1048 days.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one thousand and forty-eight (1048) days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,629,390 B2

DATED : December 8, 2009

DRAFT

INVENTOR(S) : Nuyens et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 565 days

Delete the phrase "by 565 days" and insert – by 1048 days--